

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,  
CALIFORNIA, COLORADO,  
CONNECTICUT, DELAWARE, DISTRICT  
OF COLUMBIA, FLORIDA, GEORGIA,  
HAWAII, ILLINOIS, INDIANA, IOWA,  
LOUISIANA, MARYLAND,  
MASSACHUSETTS, MICHIGAN,  
MINNESOTA, MONTANA, NEVADA, NEW  
JERSEY, NEW MEXICO, NEW YORK,  
NORTH CAROLINA, OKLAHOMA,  
RHODE ISLAND, TENNESSEE, TEXAS,  
VIRGINIA, WISCONSIN

*ex rel.* Cathleen Forney

*Plaintiffs*

v.

MEDTRONIC, INC.

*Defendant.*

**Civil Action No. 15-cv-6264**

**JURY TRIAL DEMANDED**

**EXHIBIT #3**

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

UNITED STATES OF AMERICA  
ex rel. JOHN BURNS,

Plaintiffs,

Case No. 8:10-CV-1851-T-23EAJ

v.

MEDTRONIC, INC., BOSTON SCIENTIFIC  
CORPORATION, and ST. JUDE MEDICAL, INC.,

Defendants

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**RELATOR'S NOTICE OF VOLUNTARY DISMISSAL**

Relator John Burns, by and through undersigned counsel, voluntarily dismisses his non-intervened qui tam action pursuant to Fed.R.Civ.P. 41(a)(1), and 31 U.S.C. § 3730(b)(1) without prejudice to any rights of the United States. Relator has authorized undersigned counsel to file this notice of voluntary dismissal.

**MEMORANDUM OF LAW**

Fed.R.Civ.P. 41(a)(1) provides that a plaintiff “may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” 31 U.S.C. § 3730(b)(1) provides that a relator's qui tam action may be dismissed if the Court and the Department of Justice give written consent to the dismissal and their reasons for consenting.

**Local Rule 3.01(g) Certification**

Undersigned counsel has conferred with AUSA Randy Harwell. Mr. Harwell has advised undersigned counsel that the United States does not oppose the Voluntary Dismissal provided it

does not prejudice any rights of the United States. AUSA Harwell stated that he would file a written consent upon approval of the Department of Justice.

Respectfully submitted,

/s/ Kevin J. Darken  
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Attorneys for *Qui Tam* Relator

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 24<sup>th</sup> day of August, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to Randy Harwell, AUSA.

/s/ Kevin J. Darken  
Kevin J. Darken